

Assembly Bill No. 78

Passed the Assembly July 21, 1997

Chief Clerk of the Assembly

Passed the Senate July 17, 1997

Secretary of the Senate

This bill was received by the Governor this ____ day
of _____, 1997, at ____ o'clock __M.

Private Secretary of the Governor

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CHAPTER ____

An act to amend Sections 12020, 12021, 12026.2, 12092, 12094, 12201, 12316, and 12322 of the Penal Code, relating to firearms.

LEGISLATIVE COUNSEL'S DIGEST

AB 78, Granlund. Firearms: transporting exemption.

(1) Existing law provides exemptions from the prohibition against the manufacture, import, sale, giving, lending, or possession of specified weapons and firearms. Existing law also provides exemptions for the possession of handgun ammunition.

This bill would add to these exemptions all of the following:

(a) The circumstance where any instrument, ammunition, weapon, or device listed in these prohibitions that is not a firearm is found and possessed for a specified period of time by a person who is not in a specified prohibited class and is transporting the weapon or device to a law enforcement agency for disposition according to law.

(b) Any firearm, other than a short-barrelled rifle or short-barrelled shotgun, that is found and possessed by a person under the circumstance described in (a) above who additionally has given prior notice to the law enforcement agency and is transporting the firearm in a locked container.

(c) The possession of any weapon, device, or ammunition by a forensic laboratory or any authorized agent or employee thereof in the course and scope of his or her authorized activities.

(2) Under existing law, one of the weapons subject to the prohibition described in (1) above is a dirk or dagger that is carried concealed upon the person. For purposes of this prohibition, a dirk or dagger is defined as a knife or other instrument with or without a handguard that is capable of ready use as a stabbing weapon that may inflict great bodily injury or death.



This bill would specify that a nonlocking folding knife, a folding knife that is not a switchblade knife having a blade 2 or more inches in length, or a pocketknife is capable of ready use as a stabbing weapon that may inflict great bodily injury or death only if the blade of the knife is exposed and locked into position.

(3) Under existing law, any person who is subject to the prohibition on owning, possessing, or having a firearm under his or her custody or control because of specified misdemeanor convictions prior to January 1, 1991, may petition the court only once for relief from the prohibition.

This bill would instead permit any person who is subject to the prohibition because of a conviction of an offense prior to the offense being added to the specified offenses that are subject to the prohibition, to petition the court only once for relief from the prohibition.

(4) Existing law provides that no person prohibited by state law from owning or possessing a firearm shall own, possess, or have under his or her custody or control, any ammunition or reloaded ammunition.

This bill would specify conditions that justify a violation of this prohibition.

(5) Existing law makes it a misdemeanor for any person with knowledge of any change, alteration, or obliteration to buy, receive, dispose of, sell, or possess any pistol, revolver, or other firearm with changed, altered, or obliterated identification marks.

This bill would exempt from this provision persons in specified classes, including certain on-duty peace officers and persons transporting a firearm to a law enforcement agency for disposition, as specified.

(6) This bill would incorporate additional changes in Section 12021 of the Penal Code proposed by AB 688, to be operative if AB 688 and this bill are both enacted and become effective on or before January 1, 1998, and this bill is enacted last.

(7) This bill would incorporate additional changes in Section 12316 of the Penal Code proposed by AB 1221, to be operative if AB 1221 and this bill are both enacted and

become effective on or before January 1, 1998, and this bill is enacted last.

The people of the State of California do enact as follows:

SECTION 1. Section 12020 of the Penal Code is amended to read:

12020. (a) Any person in this state who manufactures or causes to be manufactured, imports into the state, keeps for sale, or offers or exposes for sale, or who gives, lends, or possesses any cane gun or wallet gun, any undetectable firearm, any firearm which is not immediately recognizable as a firearm, any camouflaging firearm container, any ammunition which contains or consists of any fléchette dart, any bullet containing or carrying an explosive agent, any ballistic knife, any multiburst trigger activator, any nunchaku, any short-barreled shotgun, any short-barreled rifle, any metal knuckles, any belt buckle knife, any leaded cane, any zip gun, any shuriken, any unconventional pistol, any lipstick case knife, any cane sword, any shobi-zue, any air gauge knife, any writing pen knife, or any instrument or weapon of the kind commonly known as a blackjack, slungshot, billy, sandclub, sap, or sandbag, or who carries concealed upon his or her person any explosive substance, other than fixed ammunition, or who carries concealed upon his or her person any dirk or dagger is punishable by imprisonment in a county jail not exceeding one year or in the state prison. A bullet containing or carrying an explosive agent is not a destructive device as that term is used in Section 12301.

(b) Subdivision (a) does not apply to any of the following:

(1) The sale to, purchase by, or possession of short-barreled shotguns or short-barreled rifles by police departments, sheriffs' offices, marshals' offices, the California Highway Patrol, the Department of Justice, or the military or naval forces of this state or of the United States for use in the discharge of their official duties or the possession of short-barreled shotguns and short-barreled



rifles by regular, salaried, full-time members of a police department, sheriff's office, marshal's office, the California Highway Patrol, or the Department of Justice when on duty and the use is authorized by the agency and is within the course and scope of their duties.

(2) The manufacture, possession, transportation or sale of short-barreled shotguns or short-barreled rifles when authorized by the Department of Justice pursuant to Article 6 (commencing with Section 12095) of this chapter and not in violation of federal law.

(3) The possession of a nunchaku on the premises of a school which holds a regulatory or business license and teaches the arts of self-defense.

(4) The manufacture of a nunchaku for sale to, or the sale of a nunchaku to, a school which holds a regulatory or business license and teaches the arts of self-defense.

(5) Any antique firearm. For purposes of this section, "antique firearm" means any firearm not designed or redesigned for using rimfire or conventional center fire ignition with fixed ammunition and manufactured in or before 1898 (including any matchlock, flintlock, percussion cap, or similar type of ignition system or replica thereof, whether actually manufactured before or after the year 1898) and also any firearm using fixed ammunition manufactured in or before 1898, for which ammunition is no longer manufactured in the United States and is not readily available in the ordinary channels of commercial trade.

(6) Tracer ammunition manufactured for use in shotguns.

(7) Any firearm or ammunition which is a curio or relic as defined in Section 178.11 of Title 27 of the Code of Federal Regulations and which is in the possession of a person permitted to possess the items pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto. Any person prohibited by Section 12021, 12021.1, or 12101 of this code or Section 8100 or 8103 of the Welfare and Institutions Code from possessing firearms or ammunition who obtains title to these items

by bequest or intestate succession may retain title for not more than one year, but actual possession of these items at any time is punishable pursuant to Section 12021, 12021.1, or 12101 of this code or Section 8100 or 8103 of the Welfare and Institutions Code. Within the year the person shall transfer title to the firearms or ammunition by sale, gift, or other disposition. Any person who violates this paragraph is in violation of subdivision (a).

(8) Any other weapon as defined in subsection (e) of Section 5845 of Title 26 of the United States Code and which is in the possession of a person permitted to possess the weapons pursuant to the federal Gun Control Act of 1968 (Public Law 90-618), as amended, and the regulations issued pursuant thereto. Any person prohibited by Section 12021, 12021.1, or 12101 of this code or Section 8100 or 8103 of the Welfare and Institutions Code from possessing these weapons who obtains title to these weapons by bequest or intestate succession may retain title for not more than one year, but actual possession of these weapons at any time is punishable pursuant to Section 12021, 12021.1, or 12101 of this code or Section 8100 or 8103 of the Welfare and Institutions Code. Within the year, the person shall transfer title to the weapons by sale, gift, or other disposition. Any person who violates this paragraph is in violation of subdivision (a). The exemption provided in this subdivision does not apply to pen guns.

(9) Instruments or devices that are possessed by federal, state, and local historical societies, museums, and institutional collections which are open to the public, provided that these instruments or devices are properly housed, secured from unauthorized handling, and, if the instrument or device is a firearm, unloaded.

(10) Instruments or devices, other than short-barreled shotguns or short-barreled rifles, that are possessed or utilized during the course of a motion picture, television, or video production or entertainment event by an authorized participant therein in the course of making that production or event or by an authorized employee or agent of the entity producing that production or event.



(11) Instruments or devices, other than short-barreled shotguns or short-barreled rifles, that are sold by, manufactured by, exposed or kept for sale by, possessed by, imported by, or lent by persons who are in the business of selling instruments or devices listed in subdivision (a) solely to the entities referred in paragraphs (9) and (10) when engaging in transactions with those entities.

(12) The sale to, possession of, or purchase of any weapon, device, or ammunition, other than a short-barreled rifle or short-barreled shotgun, by any federal, state, county, city and county, or city agency that is charged with the enforcement of any law for use in the discharge of their official duties, or the possession of any weapon, device, or ammunition, other than a short-barreled rifle or short-barreled shotgun, by peace officers thereof when on duty and the use is authorized by the agency and is within the course and scope of their duties.

(13) Weapons, devices, and ammunition, other than a short-barreled rifle or short-barreled shotgun, that are sold by, manufactured by, exposed, or kept for sale by, possessed by, imported by, or lent by, persons who are in the business of selling weapons, devices, and ammunition listed in subdivision (a) solely to the entities referred to in paragraph (12) when engaging in transactions with those entities.

(14) The manufacture for, sale to, exposing or keeping for sale to, importation of, or lending of wooden clubs or batons to special police officers or uniformed security guards authorized to carry any wooden club or baton pursuant to Section 12002 by entities that are in the business of selling wooden batons or clubs to special police officers and uniformed security guards when engaging in transactions with those persons.

(15) Any instrument, ammunition, weapon, or device listed in subdivision (a) that is not a firearm that is found and possessed by a person who meets all of the following:

(A) The person is not prohibited from possessing firearms or ammunition pursuant to Section 12021 or



12021.1 or paragraph (1) of subdivision (b) of Section 12316 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(B) The person possessed the instrument, ammunition, weapon, or device no longer than was necessary to deliver or transport the same to a law enforcement agency for that agency's disposition according to law.

(C) If the person is transporting the listed item, he or she is transporting the listed item to a law enforcement agency for disposition according to law.

(16) Any firearm, other than a short-barreled rifle or short-barreled shotgun, that is found and possessed by a person who meets all of the following:

(A) The person is not prohibited from possessing firearms or ammunition pursuant to Section 12021 or 12021.1 or paragraph (1) of subdivision (b) of Section 12316 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(B) The person possessed the firearm no longer than was necessary to deliver or transport the same to a law enforcement agency for that agency's disposition according to law.

(C) If the person is transporting the firearm, he or she is transporting the firearm to a law enforcement agency for disposition according to law.

(D) Prior to transporting the firearm to a law enforcement agency, he or she has given prior notice to that law enforcement agency that he or she is transporting the firearm to that law enforcement agency for disposition according to law.

(E) The firearm is transported in a locked container as defined in subdivision (d) of Section 12026.2.

(17) The possession of any weapon, device, or ammunition, by a forensic laboratory or any authorized agent or employee thereof in the course and scope of his or her authorized activities.

(c) (1) As used in this section, a "short-barreled shotgun" means any of the following:



(A) A firearm which is designed or redesigned to fire a fixed shotgun shell and having a barrel or barrels of less than 18 inches in length.

(B) A firearm which has an overall length of less than 26 inches and which is designed or redesigned to fire a fixed shotgun shell.

(C) Any weapon made from a shotgun (whether by alteration, modification, or otherwise) if that weapon, as modified, has an overall length of less than 26 inches or a barrel or barrels of less than 18 inches in length.

(D) Any device which may be readily restored to fire a fixed shotgun shell which, when so restored, is a device defined in subparagraphs (A) to (C), inclusive.

(E) Any part, or combination of parts, designed and intended to convert a device into a device defined in subparagraphs (A) to (C), inclusive, or any combination of parts from which a device defined in subparagraphs (A) to (C), inclusive, can be readily assembled if those parts are in the possession or under the control of the same person.

(2) As used in this section, a “short-barreled rifle” means any of the following:

(A) A rifle having a barrel or barrels of less than 16 inches in length.

(B) A rifle with an overall length of less than 26 inches.

(C) Any weapon made from a rifle (whether by alteration, modification, or otherwise) if that weapon as modified has an overall length of less than 26 inches or a barrel or barrels of less than 16 inches in length.

(D) Any device which may be readily restored to fire a fixed cartridge which, when so restored, is a device defined in subparagraphs (A) to (C), inclusive.

(E) Any part, or combination of parts, designed and intended to convert a device into a device defined in subparagraphs (A) to (C), inclusive, or any combination of parts from which a device defined in subparagraphs (A) to (C), inclusive, may be readily assembled if those parts are in the possession or under the control of the same person.



(3) As used in this section, a “nunchaku” means an instrument consisting of two or more sticks, clubs, bars or rods to be used as handles, connected by a rope, cord, wire, or chain, in the design of a weapon used in connection with the practice of a system of self-defense such as karate.

(4) As used in this section, a “wallet gun” means any firearm mounted or enclosed in a case, resembling a wallet, designed to be or capable of being carried in a pocket or purse, if the firearm may be fired while mounted or enclosed in the case.

(5) As used in this section, a “cane gun” means any firearm mounted or enclosed in a stick, staff, rod, crutch, or similar device, designed to be, or capable of being used as, an aid in walking, if the firearm may be fired while mounted or enclosed therein.

(6) As used in this section, a “fléchette dart” means a dart, capable of being fired from a firearm, which measures approximately one inch in length, with tail fins which take up five-sixteenths of an inch of the body.

(7) As used in this section, “metal knuckles” means any device or instrument made wholly or partially of metal which is worn for purposes of offense or defense in or on the hand and which either protects the wearer’s hand while striking a blow or increases the force of impact from the blow or injury to the individual receiving the blow. The metal contained in the device may help support the hand or fist, provide a shield to protect it, or consist of projections or studs which would contact the individual receiving a blow.

(8) As used in this section, a “ballistic knife” means a device that propels a knifelike blade as a projectile by means of a coil spring, elastic material, or compressed gas. Ballistic knife does not include any device which propels an arrow or a bolt by means of any common bow, compound bow, crossbow, or underwater spear gun.

(9) As used in this section, a “camouflaging firearm container” means a container which meets all of the following criteria:

(A) It is designed and intended to enclose a firearm.



(B) It is designed and intended to allow the firing of the enclosed firearm by external controls while the firearm is in the container.

(C) It is not readily recognizable as containing a firearm.

“Camouflaging firearm container” does not include any camouflaging covering used while engaged in lawful hunting or while going to or returning from a lawful hunting expedition.

(10) As used in this section, a “zip gun” means any weapon or device which meets all of the following criteria:

(A) It was not imported as a firearm by an importer licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

(B) It was not originally designed to be a firearm by a manufacturer licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

(C) No tax was paid on the weapon or device nor was an exemption from paying tax on that weapon or device granted under Section 4181 and subchapters F (commencing with Section 4216) and G (commencing with Section 4221) of Chapter 32 of Title 26 of the United States Code, as amended, and the regulations issued pursuant thereto.

(D) It is made or altered to expel a projectile by the force of an explosion or other form of combustion.

(11) As used in this section, a “shuriken” means any instrument, without handles, consisting of a metal plate having three or more radiating points with one or more sharp edges and designed in the shape of a polygon, trefoil, cross, star, diamond, or other geometric shape for use as a weapon for throwing.

(12) As used in this section, an “unconventional pistol” means a firearm that does not have a rifled bore and has a barrel or barrels of less than 18 inches in length or has an overall length of less than 26 inches.



(13) As used in this section, a “belt buckle knife” is a knife which is made an integral part of a belt buckle and consists of a blade with a length of at least 2¹/₂ inches.

(14) As used in this section, a “lipstick case knife” means a knife enclosed within and made an integral part of a lipstick case.

(15) As used in this section, a “cane sword” means a cane, swagger stick, stick, staff, rod, pole, umbrella, or similar device, having concealed within it a blade that may be used as a sword or stiletto.

(16) As used in this section, a “shobi-zue” means a staff, crutch, stick, rod, or pole concealing a knife or blade within it which may be exposed by a flip of the wrist or by a mechanical action.

(17) As used in this section, a “leaded cane” means a staff, crutch, stick, rod, pole, or similar device, unnaturally weighted with lead.

(18) As used in this section, an “air gauge knife” means a device that appears to be an air gauge but has concealed within it a pointed, metallic shaft that is designed to be a stabbing instrument which is exposed by mechanical action or gravity which locks into place when extended.

(19) As used in this section, a “writing pen knife” means a device that appears to be a writing pen but has concealed within it a pointed, metallic shaft that is designed to be a stabbing instrument which is exposed by mechanical action or gravity which locks into place when extended or the pointed, metallic shaft is exposed by the removal of the cap or cover on the device.

(20) As used in this section, a “rifle” means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed cartridge to fire only a single projectile through a rifled bore for each single pull of the trigger.

(21) As used in this section, a “shotgun” means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed shotgun shell to fire through a smooth



bore either a number of projectiles (ball shot) or a single projectile for each pull of the trigger.

(22) As used in this section, an “undetectable firearm” means any weapon which meets one of the following requirements:

(A) When, after removal of grips, stocks, and magazines, it is not as detectable as the Security Exemplar, by walk-through metal detectors calibrated and operated to detect the Security Exemplar.

(B) When any major component of which, when subjected to inspection by the types of X-ray machines commonly used at airports, does not generate an image that accurately depicts the shape of the component. Barium sulfate or other compounds may be used in the fabrication of the component.

(C) For purposes of this paragraph, the terms “firearm,” “major component,” and “Security Exemplar” have the same meanings as those terms are defined in Section 922 of Title 18 of the United States Code.

All firearm detection equipment newly installed in nonfederal public buildings in this state shall be of a type identified by either the United States Attorney General, the Secretary of Transportation, or the Secretary of the Treasury, as appropriate, as available state-of-the-art equipment capable of detecting an undetectable firearm, as defined, while distinguishing innocuous metal objects likely to be carried on one’s person sufficient for reasonable passage of the public.

(23) As used in this section, a “multiburst trigger activator” means one of the following devices:

(A) A device designed or redesigned to be attached to a semiautomatic firearm which allows the firearm to discharge two or more shots in a burst by activating the device.

(B) A manual or power-driven trigger activating device constructed and designed so that when attached to a semiautomatic firearm it increases the rate of fire of that firearm.

(24) As used in this section, a “dirk” or “dagger” means a knife or other instrument with or without a handguard

that is capable of ready use as a stabbing weapon that may inflict great bodily injury or death. A nonlocking folding knife, a folding knife that is not prohibited by Section 653k, or a pocketknife is capable of ready use as a stabbing weapon that may inflict great bodily injury or death only if the blade of the knife is exposed and locked into position.

(d) Knives carried in sheaths which are worn openly suspended from the waist of the wearer are not concealed within the meaning of this section.

SEC. 2. Section 12021 of the Penal Code is amended to read:

12021. (a) (1) Any person who has been convicted of a felony under the laws of the United States, of the State of California, or any other state, government, or country, or of an offense enumerated in subdivision (a), (b), or (d) of Section 12001.6, or who is addicted to the use of any narcotic drug, who owns or has in his or her possession or under his or her custody or control any firearm is guilty of a felony.

(2) Any person who has two or more convictions for violating paragraph (2) of subdivision (a) of Section 417 and who owns or has in his or her possession or under his or her custody or control any firearm is guilty of a felony.

(b) Notwithstanding subdivision (a), any person who has been convicted of a felony or of an offense enumerated in Section 12001.6, when that conviction results from certification by the juvenile court for prosecution as an adult in an adult court under Section 707 of the Welfare and Institutions Code, who owns or has in his or her possession or under his or her custody or control any firearm is guilty of a felony.

(c) (1) Except as provided in subdivision (a) or paragraph (2) of this subdivision, any person who has been convicted of a misdemeanor violation of Section 71, 76, 136.5, or 140, subdivision (d) of Section 148, Section 171b, 171c, 171d, 186.28, 240, 241, 242, 243, 244.5, 245, 245.5, 246, 246.3, 247, 273.5, 273.6, 417, 417.1, 417.2, 417.6, 626.9, 646.9, 12023, or 12024, subdivision (b) or (d) of Section 12034, Section 12040, subdivision (b) of Section 12072,



subdivision (a) of former Section 12100, Section 12220, 12320, or 12590, or Section 8100, 8101, or 8103 of the Welfare and Institutions Code, any firearm-related offense pursuant to Sections 871.5 and 1001.5 of the Welfare and Institutions Code, or of the conduct punished in paragraph (3) of subdivision (g) of Section 12072, and who, within 10 years of the conviction, owns, or has in his or her possession or under his or her custody or control, any firearm is guilty of a public offense, which shall be punishable by imprisonment in a county jail not exceeding one year or in the state prison, by a fine not exceeding one thousand dollars (\$1,000), or by both that imprisonment and fine. The court, on forms prescribed by the Department of Justice, shall notify the department of persons subject to this subdivision. However, the prohibition in this paragraph may be reduced, eliminated, or conditioned as provided in paragraph (2) or (3).

(2) Any person employed as a peace officer described in Section 830.1, 830.2, 830.31, 830.32, 830.33, or 830.5 whose employment or livelihood is dependent on the ability to legally possess a firearm, who is subject to the prohibition imposed by this subdivision because of a conviction under Section 273.5, 273.6, or 646.9, may petition the court only once for relief from this prohibition. The petition shall be filed with the court in which the petitioner was sentenced. If possible, the matter shall be heard before the same judge that sentenced the petitioner. Upon filing the petition, the clerk of the court shall set the hearing date and shall notify the petitioner and the prosecuting attorney of the date of the hearing. Upon making each of the following findings, the court may reduce or eliminate the prohibition, impose conditions on reduction or elimination of the prohibition, or otherwise grant relief from the prohibition as the court deems appropriate:

(A) Finds by a preponderance of the evidence that the petitioner is likely to use a firearm in a safe and lawful manner.



(B) Finds that the petitioner is not within a prohibited class as specified in subdivision (a), (b), (d), (e), or (g) or Section 12021.1, and the court is not presented with any credible evidence that the petitioner is a person described in Section 8100 or 8103 of the Welfare and Institutions Code.

(C) Finds that the petitioner does not have a previous conviction under this subdivision no matter when the prior conviction occurred.

In making its decision, the court shall consider the petitioner's continued employment, the interest of justice, any relevant evidence, and the totality of the circumstances. The court shall require, as a condition of granting relief from the prohibition under this section, that the petitioner agree to participate in counseling as deemed appropriate by the court. Relief from the prohibition shall not relieve any other person or entity from any liability that might otherwise be imposed. It is the intent of the Legislature that courts exercise broad discretion in fashioning appropriate relief under this paragraph in cases in which relief is warranted. However, nothing in this paragraph shall be construed to require courts to grant relief to any particular petitioner. It is the intent of the Legislature to permit persons who were convicted of an offense specified in Section 273.5, 273.6, or 646.9 to seek relief from the prohibition imposed by this subdivision.

(3) Any person who is subject to the prohibition imposed by this subdivision because of a conviction of an offense prior to that offense being added to paragraph (1), may petition the court only once for relief from this prohibition. The petition shall be filed with the court in which the petitioner was sentenced. If possible, the matter shall be heard before the same judge that sentenced the petitioner. Upon filing the petition, the clerk of the court shall set the hearing date and notify the petitioner and the prosecuting attorney of the date of the hearing. Upon making each of the following findings, the court may reduce or eliminate the prohibition, impose conditions on reduction or elimination of the prohibition,



or otherwise grant relief from the prohibition as the court deems appropriate:

(A) Finds by a preponderance of the evidence that the petitioner is likely to use a firearm in a safe and lawful manner.

(B) Finds that the petitioner is not within a prohibited class as specified in subdivision (a), (b), (d), (e), or (g) or Section 12021.1, and the court is not presented with any credible evidence that the petitioner is a person described in Section 8100 or 8103 of the Welfare and Institutions Code.

(C) Finds that the petitioner does not have a previous conviction under this subdivision, no matter when the prior conviction occurred.

In making its decision, the court may consider the interest of justice, any relevant evidence, and the totality of the circumstances. It is the intent of the Legislature that courts exercise broad discretion in fashioning appropriate relief under this paragraph in cases in which relief is warranted. However, nothing in this paragraph shall be construed to require courts to grant relief to any particular petitioner.

(4) Law enforcement officials who enforce the prohibition specified in this subdivision against a person who has been granted relief pursuant to paragraph (2) or (3), shall be immune from any liability for false arrest arising from the enforcement of this subdivision unless the person has in his or her possession a certified copy of the court order that granted the person relief from the prohibition. This immunity from liability shall not relieve any person or entity from any other liability that might otherwise be imposed.

(d) Any person who, as an express condition of probation, is prohibited or restricted from owning, possessing, controlling, receiving, or purchasing a firearm and who owns, or has in his or her possession or under his or her custody or control, any firearm but who is not subject to subdivision (a) or (c) is guilty of a public offense, which shall be punishable by imprisonment in a county jail not exceeding one year or in the state prison,



by a fine not exceeding one thousand dollars (\$1,000), or by both that imprisonment and fine. The court, on forms provided by the Department of Justice, shall notify the department of persons subject to this subdivision. The notice shall include a copy of the order of probation and a copy of any minute order or abstract reflecting the order and conditions of probation.

(e) Any person who (1) is alleged to have committed an offense listed in subdivision (b) of Section 707 of the Welfare and Institutions Code, an offense described in subdivision (b) of Section 1203.073, or any offense enumerated in paragraph (1) of subdivision (c), (2) is found to be a fit and proper subject to be dealt with under the juvenile court law, and (3) is subsequently adjudged a ward of the juvenile court within the meaning of Section 602 of the Welfare and Institutions Code because the person committed an offense listed in subdivision (b) of Section 707 of the Welfare and Institutions Code, an offense described in subdivision (b) of Section 1203.073, or any offense enumerated in paragraph (1) of subdivision (c) shall not own, or have in his or her possession or under his or her custody or control, any firearm until the age of 30 years. A violation of this subdivision shall be punishable by imprisonment in a county jail not exceeding one year or in the state prison, by a fine not exceeding one thousand dollars (\$1,000), or by both that imprisonment and fine. The juvenile court, on forms prescribed by the Department of Justice, shall notify the department of persons subject to this subdivision. Notwithstanding any other law, the forms required to be submitted to the department pursuant to this subdivision may be used to determine eligibility to acquire a firearm.

(f) Subdivision (a) shall not apply to a person who has been convicted of a felony under the laws of the United States unless either of the following criteria is satisfied:

(1) Conviction of a like offense under California law can only result in imposition of felony punishment.

(2) The defendant was sentenced to a federal correctional facility for more than 30 days, or received a



fine of more than one thousand dollars (\$1,000), or received both punishments.

(g) Every person who purchases or receives, or attempts to purchase or receive, a firearm knowing that he or she is subject to a protective order as defined in Section 6218 of the Family Code, or a temporary restraining order or injunction issued pursuant to Section 527.6 or 527.8 of the Code of Civil Procedure, is guilty of a public offense, which shall be punishable by imprisonment in a county jail not exceeding one year or in the state prison, by a fine not exceeding one thousand dollars (\$1,000), or by both that imprisonment and fine. This subdivision does not apply unless the copy of the restraining order personally served on the person against whom the restraining order is issued contains a notice in bold print stating (1) that the person is prohibited from purchasing or receiving or attempting to purchase or receive a firearm and (2) specifying the penalties for violating this subdivision, or a court has provided actual verbal notice of the firearm prohibition and penalty as provided in Section 6304 of the Family Code. However, this subdivision does not apply if the firearm is received as part of the disposition of community property pursuant to Division 7 (commencing with Section 2500) of the Family Code.

(h) (1) A violation of subdivision (a), (b), (c), (d), or (e) is justifiable where all of the following conditions are met:

(A) The person found the firearm or took the firearm from a person who was committing a crime against him or her.

(B) The person possessed the firearm no longer than was necessary to deliver or transport the firearm to a law enforcement agency for that agency's disposition according to law.

(C) If the firearm was transported to a law enforcement agency, it was transported in accordance with paragraph (18) of subdivision (a) of Section 12026.2.

(D) If the firearm is being transported to a law enforcement agency, the person transporting the firearm



has given prior notice to the law enforcement agency that he or she is transporting the firearm to the law enforcement agency for disposition according to law.

(2) Upon the trial for violating subdivision (a), (b), (c), (d), or (e), the trier of fact shall determine whether the defendant was acting within the provisions of the exemption created by this subdivision.

(3) The defendant has the burden of proving by a preponderance of the evidence that he or she comes within the provisions of the exemption created by this subdivision.

SEC. 2.5. Section 12021 of the Penal Code is amended to read:

12021. (a) (1) Any person who has been convicted of a felony under the laws of the United States, of the State of California, or any other state, government, or country, or of an offense enumerated in subdivision (a), (b), or (d) of Section 12001.6, or who is addicted to the use of any narcotic drug, who owns or has in his or her possession or under his or her custody or control any firearm is guilty of a felony.

(2) Any person who has two or more convictions for violating paragraph (2) of subdivision (a) of Section 417 and who owns or has in his or her possession or under his or her custody or control any firearm is guilty of a felony.

(b) Notwithstanding subdivision (a), any person who has been convicted of a felony or of an offense enumerated in Section 12001.6, when that conviction results from certification by the juvenile court for prosecution as an adult in an adult court under Section 707 of the Welfare and Institutions Code, who owns or has in his or her possession or under his or her custody or control any firearm is guilty of a felony.

(c) (1) Except as provided in subdivision (a) or paragraph (2) of this subdivision, any person who has been convicted of a misdemeanor violation of Section 71, 76, 136.5, or 140, subdivision (d) of Section 148, Section 171b, 171c, 171d, 186.28, 240, 241, 242, 243, 244.5, 245, 245.5, 246, 246.3, 247, 273.5, 273.6, 417, 417.1, 417.2, 417.6, 626.9, 646.9, 12023, or 12024, subdivision (b) or (d) of Section



12034, Section 12040, subdivision (b) of Section 12072, subdivision (a) of former Section 12100, Section 12220, 12320, or 12590, or Section 8100, 8101, or 8103 of the Welfare and Institutions Code, any firearm-related offense pursuant to Sections 871.5 and 1001.5 of the Welfare and Institutions Code, or of the conduct punished in paragraph (3) of subdivision (g) of Section 12072, and who, within 10 years of the conviction, owns, or has in his or her possession or under his or her custody or control, any firearm is guilty of a public offense, which shall be punishable by imprisonment in a county jail not exceeding one year or in the state prison, by a fine not exceeding one thousand dollars (\$1,000), or by both that imprisonment and fine. The court, on forms prescribed by the Department of Justice, shall notify the department of persons subject to this subdivision. However, the prohibition in this paragraph may be reduced, eliminated, or conditioned as provided in paragraph (2) or (3).

(2) Any person employed as a peace officer described in Section 830.1, 830.2, 830.31, 830.32, 830.33, or 830.5 whose employment or livelihood is dependent on the ability to legally possess a firearm, who is subject to the prohibition imposed by this subdivision because of a conviction under Section 273.5, 273.6, or 646.9, may petition the court only once for relief from this prohibition. The petition shall be filed with the court in which the petitioner was sentenced. If possible, the matter shall be heard before the same judge that sentenced the petitioner. Upon filing the petition, the clerk of the court shall set the hearing date and shall notify the petitioner and the prosecuting attorney of the date of the hearing. Upon making each of the following findings, the court may reduce or eliminate the prohibition, impose conditions on reduction or elimination of the prohibition, or otherwise grant relief from the prohibition as the court deems appropriate:

(A) Finds by a preponderance of the evidence that the petitioner is likely to use a firearm in a safe and lawful manner.

(B) Finds that the petitioner is not within a prohibited class as specified in subdivision (a), (b), (d), (e), or (g) or Section 12021.1, and the court is not presented with any credible evidence that the petitioner is a person described in Section 8100 or 8103 of the Welfare and Institutions Code.

(C) Finds that the petitioner does not have a previous conviction under this subdivision no matter when the prior conviction occurred.

In making its decision, the court shall consider the petitioner's continued employment, the interest of justice, any relevant evidence, and the totality of the circumstances. The court shall require, as a condition of granting relief from the prohibition under this section, that the petitioner agree to participate in counseling as deemed appropriate by the court. Relief from the prohibition shall not relieve any other person or entity from any liability that might otherwise be imposed. It is the intent of the Legislature that courts exercise broad discretion in fashioning appropriate relief under this paragraph in cases in which relief is warranted. However, nothing in this paragraph shall be construed to require courts to grant relief to any particular petitioner. It is the intent of the Legislature to permit persons who were convicted of an offense specified in Section 273.5, 273.6, or 646.9 to seek relief from the prohibition imposed by this subdivision.

(3) Any person who is subject to the prohibition imposed by this subdivision because of a conviction of an offense prior to that offense being added to paragraph (1), may petition the court only once for relief from this prohibition. The petition shall be filed with the court in which the petitioner was sentenced. If possible, the matter shall be heard before the same judge that sentenced the petitioner. Upon filing the petition, the clerk of the court shall set the hearing date and notify the petitioner and the prosecuting attorney of the date of the hearing. Upon making each of the following findings, the court may reduce or eliminate the prohibition, impose conditions on reduction or elimination of the prohibition,



or otherwise grant relief from the prohibition as the court deems appropriate:

(A) Finds by a preponderance of the evidence that the petitioner is likely to use a firearm in a safe and lawful manner.

(B) Finds that the petitioner is not within a prohibited class as specified in subdivision (a), (b), (d), (e), or (g) or Section 12021.1, and the court is not presented with any credible evidence that the petitioner is a person described in Section 8100 or 8103 of the Welfare and Institutions Code.

(C) Finds that the petitioner does not have a previous conviction under this subdivision, no matter when the prior conviction occurred.

In making its decision, the court may consider the interest of justice, any relevant evidence, and the totality of the circumstances. It is the intent of the Legislature that courts exercise broad discretion in fashioning appropriate relief under this paragraph in cases in which relief is warranted. However, nothing in this paragraph shall be construed to require courts to grant relief to any particular petitioner.

(4) Law enforcement officials who enforce the prohibition specified in this subdivision against a person who has been granted relief pursuant to paragraph (2) or (3), shall be immune from any liability for false arrest arising from the enforcement of this subdivision unless the person has in his or her possession a certified copy of the court order that granted the person relief from the prohibition. This immunity from liability shall not relieve any person or entity from any other liability that might otherwise be imposed.

(d) Any person who, as an express condition of probation, is prohibited or restricted from owning, possessing, controlling, receiving, or purchasing a firearm and who owns, or has in his or her possession or under his or her custody or control, any firearm but who is not subject to subdivision (a) or (c) is guilty of a public offense, which shall be punishable by imprisonment in a county jail not exceeding one year or in the state prison,

by a fine not exceeding one thousand dollars (\$1,000), or by both that imprisonment and fine. The court, on forms provided by the Department of Justice, shall notify the department of persons subject to this subdivision. The notice shall include a copy of the order of probation and a copy of any minute order or abstract reflecting the order and conditions of probation.

(e) Any person who (1) is alleged to have committed an offense listed in subdivision (b) of Section 707 of the Welfare and Institutions Code, an offense described in subdivision (b) of Section 1203.073, or any offense enumerated in paragraph (1) of subdivision (c), and (2) is subsequently adjudged a ward of the juvenile court within the meaning of Section 602 of the Welfare and Institutions Code because the person committed an offense listed in subdivision (b) of Section 707 of the Welfare and Institutions Code, an offense described in subdivision (b) of Section 1203.073, or any offense enumerated in paragraph (1) of subdivision (c) shall not own, or have in his or her possession or under his or her custody or control, any firearm until the age of 30 years. A violation of this subdivision shall be punishable by imprisonment in a county jail not exceeding one year or in the state prison, by a fine not exceeding one thousand dollars (\$1,000), or by both that imprisonment and fine. The juvenile court, on forms prescribed by the Department of Justice, shall notify the department of persons subject to this subdivision. Notwithstanding any other law, the forms required to be submitted to the department pursuant to this subdivision may be used to determine eligibility to acquire a firearm.

(f) Subdivision (a) shall not apply to a person who has been convicted of a felony under the laws of the United States unless either of the following criteria is satisfied:

(1) Conviction of a like offense under California law can only result in imposition of felony punishment.

(2) The defendant was sentenced to a federal correctional facility for more than 30 days, or received a fine of more than one thousand dollars (\$1,000), or received both punishments.



(g) Every person who purchases or receives, or attempts to purchase or receive, a firearm knowing that he or she is subject to a protective order as defined in Section 6218 of the Family Code, or a temporary restraining order or injunction issued pursuant to Section 527.6 or 527.8 of the Code of Civil Procedure, is guilty of a public offense, which shall be punishable by imprisonment in a county jail not exceeding one year or in the state prison, by a fine not exceeding one thousand dollars (\$1,000), or by both that imprisonment and fine. This subdivision does not apply unless the copy of the restraining order personally served on the person against whom the restraining order is issued contains a notice in bold print stating (1) that the person is prohibited from purchasing or receiving or attempting to purchase or receive a firearm and (2) specifying the penalties for violating this subdivision, or a court has provided actual verbal notice of the firearm prohibition and penalty as provided in Section 6304 of the Family Code. However, this subdivision does not apply if the firearm is received as part of the disposition of community property pursuant to Division 7 (commencing with Section 2500) of the Family Code.

(h) (1) A violation of subdivision (a), (b), (c), (d), or (e) is justifiable where all of the following conditions are met:

(A) The person found the firearm or took the firearm from a person who was committing a crime against him or her.

(B) The person possessed the firearm no longer than was necessary to deliver or transport the firearm to a law enforcement agency for that agency's disposition according to law.

(C) If the firearm was transported to a law enforcement agency, it was transported in accordance with paragraph (18) of subdivision (a) of Section 12026.2.

(D) If the firearm is being transported to a law enforcement agency, the person transporting the firearm has given prior notice to the law enforcement agency that



he or she is transporting the firearm to the law enforcement agency for disposition according to law.

(2) Upon the trial for violating subdivision (a), (b), (c), (d), or (e), the trier of fact shall determine whether the defendant was acting within the provisions of the exemption created by this subdivision.

(3) The defendant has the burden of proving by a preponderance of the evidence that he or she comes within the provisions of the exemption created by this subdivision.

SEC. 3. Section 12026.2 of the Penal Code is amended to read:

12026.2. (a) Section 12025 does not apply to, or affect, any of the following:

(1) The possession of a firearm by an authorized participant in a motion picture, television, or video production or entertainment event when the participant lawfully uses the firearm as part of that production or event or while going directly to, or coming directly from, that production or event.

(2) The possession of a firearm in a locked container by a member of any club or organization, organized for the purpose of lawfully collecting and lawfully displaying pistols, revolvers, or other firearms, while the member is at meetings of the clubs or organizations or while going directly to, and coming directly from, those meetings.

(3) The transportation of a firearm by a participant when going directly to, or coming directly from, a recognized safety or hunter safety class, or a recognized sporting event involving that firearm.

(4) The transportation of a firearm by a person listed in Section 12026 directly between any of the places mentioned in Section 12026.

(5) The transportation of a firearm by a person when going directly to, or coming directly from, a fixed place of business or private residential property for the purpose of the lawful repair or the lawful transfer, sale, or loan of that firearm.

(6) The transportation of a firearm by a person listed in Section 12026 when going directly from the place



where that person lawfully received that firearm to that person's place of residence or place of business or to private property owned or lawfully possessed by that person.

(7) The transportation of a firearm by a person when going directly to, or coming directly from, a gun show, swap meet, or similar event to which the public is invited, for the purpose of displaying that firearm in a lawful manner.

(8) The transportation of a firearm by an authorized employee or agent of a supplier of firearms when going directly to, or coming directly from, a motion picture, television, or video production or entertainment event for the purpose of providing that firearm to an authorized participant to lawfully use as a part of that production or event.

(9) The transportation of a firearm by a person when going directly to, or coming directly from, a target range, which holds a regulatory or business license, for the purposes of practicing shooting at targets with that firearm at that target range.

(10) The transportation of a firearm by a person when going directly to, or coming directly from, a place designated by a person authorized to issue licenses pursuant to Section 12050 when done at the request of the issuing agency so that the issuing agency can determine whether or not a license should be issued to that person to carry that firearm.

(11) The transportation of a firearm by a person when going directly to, or coming directly from, a law enforcement agency for the purpose of a lawful transfer, sale, or loan of that firearm pursuant to Section 12084.

(12) The transportation of a firearm by a person when going directly to, or coming directly from, a lawful camping activity for the purpose of having that firearm available for lawful personal protection while at the lawful campsite. This paragraph shall not be construed to override the statutory authority granted to the Department of Parks and Recreation or any other state or local governmental agencies to promulgate rules and



regulations governing the administration of parks and campgrounds.

(13) The transportation of a firearm by a person in order to comply with subdivision (c) or (i) of Section 12078 as it pertains to that firearm.

(14) The transportation of a firearm by a person in order to utilize subdivision (l) of Section 12078 as it pertains to that firearm.

(15) The transportation of a firearm by a person when going directly to, or coming directly from, a gun show or event, as defined in Section 178.100 of Title 27 of the Code of Federal Regulations, for the purpose of lawfully transferring, selling, or loaning that firearm in accordance with subdivision (d) of Section 12072.

(16) The transportation of a firearm by a person in order to utilize paragraph (3) of subdivision (a) of Section 12078 as it pertains to that firearm.

(17) The transportation of a firearm by a person who finds the firearm in order to comply with Article 1 (commencing with Section 2080) of Chapter 4 of Division 3 of the Civil Code as it pertains to that firearm and if that firearm is being transported to a law enforcement agency, the person gives prior notice to the law enforcement agency that he or she is transporting the firearm to the law enforcement agency.

(18) The transportation of a firearm by a person who finds the firearm and is transporting it to a law enforcement agency for disposition according to law, if he or she gives prior notice to the law enforcement agency that he or she is transporting the firearm to the law enforcement agency for disposition according to law.

(b) In order for a firearm to be exempted under subdivision (a), while being transported to or from a place, the firearm shall be unloaded, kept in a locked container, as defined in subdivision (d), and the course of travel shall include only those deviations between authorized locations as are reasonably necessary under the circumstances.

(c) This section does not prohibit or limit the otherwise lawful carrying or transportation of any pistol,



revolver, or other firearm capable of being concealed upon the person in accordance with this chapter.

(d) As used in this section, “locked container” means a secure container which is fully enclosed and locked by a padlock, key lock, combination lock, or similar locking device. The term “locked container” does not include the utility or glove compartment of a motor vehicle.

SEC. 4. Section 12092 of the Penal Code is amended to read:

12092. The Department of Justice upon request may assign a distinguishing number or mark of identification to any firearm whenever it is without a manufacturer’s number, or other mark of identification or whenever the manufacturer’s number or other mark of identification or the distinguishing number or mark assigned by the department has been destroyed or obliterated.

SEC. 5. Section 12094 of the Penal Code is amended to read:

12094. (a) Any person with knowledge of any change, alteration, removal, or obliteration described herein, who buys, receives, disposes of, sells, offers for sale, or has in his or her possession any pistol, revolver, or other firearm which has had the name of the maker, model, or the manufacturer’s number or other mark of identification including any distinguishing number or mark assigned by the Department of Justice changed, altered, removed, or obliterated is guilty of a misdemeanor.

(b) Subdivision (a) does not apply to any of the following:

(1) The acquisition or possession of a firearm described in subdivision (a) by any member of the military forces of the this state or of the United States, while on duty and acting within the scope and course of his or her employment.

(2) The acquisition or possession of a firearm described in subdivision (a) by any peace officer described in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, while on duty and acting within the scope and course of his or her employment.



(3) The acquisition or possession of a firearm described in subdivision (a) by any employee of a forensic laboratory, while on duty and acting within the scope and course of his or her employment.

(4) The possession and disposition of a firearm described in subdivision (a) by a person who meets, all of the following:

(A) He or she is not prohibited from possessing firearms or ammunition pursuant to Section 12021 or 12021.1 or paragraph (1) of subdivision (b) of Section 12316 of this code, or Section 8100 or 8103 of the Welfare and Institutions Code.

(B) The person possessed the firearm no longer than was necessary to deliver the same to a law enforcement agency for that agency's disposition according to law.

(C) If the person is transporting the firearm, he or she is transporting the firearm to a law enforcement agency in order to deliver the firearm to the law enforcement agency for the agency's disposition according to law.

(D) If the person is transporting the firearm to a law enforcement agency, he or she has given prior notice to the law enforcement agency that he or she is transporting the firearm to that law enforcement agency for that agency's disposition according to law.

(E) The firearm is transported in a locked container as defined in subdivision (d) of Section 12026.2.

SEC. 6. Section 12201 of the Penal Code is amended to read:

12201. Nothing in this chapter shall affect or apply to any of the following:

(a) The sale to, purchase by, or possession of machineguns by police departments, sheriffs' offices, marshals' offices, district attorneys' offices, the California Highway Patrol, the Department of Justice, the Department of Corrections for use by the department's Special Emergency Response Teams and Law Enforcement Liaison/Investigations Unit, or the military or naval forces of this state or of the United States for use in the discharge of their official duties.



(b) The possession of machineguns by regular, salaried, full-time peace officer members of a police department, sheriff's office, marshal's office, district attorney's office, the California Highway Patrol, the Department of Justice, or the Department of Corrections for use by the department's Special Emergency Response Teams and Law Enforcement Liaison/Investigations Unit when on duty and if the use is within the scope of their duties.

SEC. 7. Section 12316 of the Penal Code is amended to read:

12316. (a) Any person, corporation, or dealer who sells ammunition or reloaded ammunition to a person knowing that person to be a minor under 18 years of age shall be punished by imprisonment in a county jail for a term not to exceed six months, or by a fine not to exceed one thousand dollars (\$1,000), or by both the imprisonment and fine.

Proof that a person, corporation, or dealer, or his or her agent or employee, demanded, was shown, and acted in reliance upon, bona fide evidence of majority and identity shall be a defense to any criminal prosecution under this subdivision. As used in this subdivision, "bona fide evidence of majority and identity" means a document issued by a federal, state, county, or municipal government, or subdivision or agency thereof, including, but not limited to, a motor vehicle operator's license, California state identification card, identification card issued to a member of the armed forces, or other form of identification that bears the name, date of birth, description, and picture of the person.

(b) (1) No person prohibited from owning or possessing a firearm under Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code shall own, possess, or have under his or her custody or control, any ammunition or reloaded ammunition.

(2) For purposes of this subdivision, "ammunition" shall include, but not be limited to, any bullet, cartridge, magazine, clip, speed loader, autoloader, or projectile

capable of being fired from a firearm with a deadly consequence.

(3) A violation of this subdivision is punishable by imprisonment in a county jail not to exceed one year or in the state prison, by a fine not to exceed one thousand dollars (\$1,000), or by both the fine and imprisonment.

(c) Unless it is with the written permission of the school district superintendent, his or her designee, or equivalent school authority, no person shall carry ammunition or reloaded ammunition onto school grounds, except sworn law enforcement officers acting within the scope of their duties or persons exempted under subparagraph (A) of paragraph (1) of subdivision (a) of Section 12027. This subdivision shall not apply to a duly appointed peace officer as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, a full-time paid peace officer of another state or the federal government who is carrying out official duties while in California, any person summoned by any of these officers to assist in making an arrest or preserving the peace while he or she is actually engaged in assisting the officer, a member of the military forces of this state or of the United States who is engaged in the performance of his or her duties, a person holding a valid license to carry the firearm pursuant to Article 3 (commencing with Section 12050) of Chapter 1 of Title 2 of Part 4, or an armored vehicle guard, who is engaged in the performance of his or her duties, as defined in subdivision (e) of Section 7521 of the Business and Professions Code. A violation of this subdivision is punishable by imprisonment in a county jail for a term not to exceed six months, a fine not to exceed one thousand dollars (\$1,000), or both the imprisonment and fine.

(d) (1) A violation of paragraph (1) of subdivision (b) is justifiable where all of the following conditions are met:

(A) The person found the ammunition or reloaded ammunition or took the ammunition or reloaded ammunition from a person who was committing a crime against him or her.



(B) The person possessed the ammunition or reloaded ammunition no longer than was necessary to deliver or transport the ammunition or reloaded ammunition to a law enforcement agency for that agency's disposition according to law.

(C) The person is prohibited from possessing any ammunition or reloaded ammunition solely because that person is prohibited from owning or possessing a firearm only by virtue of Section 12021.

(2) Upon the trial for violating paragraph (1) of subdivision (b), the trier of fact shall determine whether the defendant is subject to the exemption created by this subdivision.

(3) The defendant has the burden of proving by a preponderance of the evidence that he or she is subject to the exemption provided by this subdivision.

SEC. 8. Section 12316 of the Penal Code is amended to read:

12316. (a) (1) Any person, corporation, or dealer who does either of the following shall be punished by imprisonment in a county jail for a term not to exceed six months, or by a fine not to exceed one thousand dollars (\$1,000), or by both the imprisonment and fine:

(A) Sells any ammunition or reloaded ammunition to a person knowing that person to be under 18 years of age.

(B) Sells any ammunition or reloaded ammunition designed and intended for use in a pistol, revolver, or other firearm capable of being concealed upon the person to a person knowing that person to be under 21 years of age. As used in this subparagraph, "ammunition" means handgun ammunition as defined in subdivision (a) of Section 12323. Where ammunition or reloaded ammunition may be used in both a rifle and a handgun, federal law shall be considered for purposes of enforcing this subparagraph.

(2) Proof that a person, corporation, or dealer, or his or her agent or employee, demanded, was shown, and acted in reliance upon, bona fide evidence of majority and identity shall be a defense to any criminal prosecution under this subdivision. As used in this



subdivision, “bona fide evidence of majority and identity” means a document issued by a federal, state, county, or municipal government, or subdivision or agency thereof, including, but not limited to, a motor vehicle operator’s license, California state identification card, identification card issued to a member of the armed forces, or other form of identification that bears the name, date of birth, description, and picture of the person.

(b) (1) No person prohibited from owning or possessing a firearm under Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code shall own, possess, or have under his or her custody or control, any ammunition or reloaded ammunition.

(2) For purposes of this subdivision, “ammunition” shall include, but not be limited to, any bullet, cartridge, magazine, clip, speed loader, autoloader, or projectile capable of being fired from a firearm with a deadly consequence.

(3) A violation of this subdivision is punishable by imprisonment in a county jail not to exceed one year or in the state prison, by a fine not to exceed one thousand dollars (\$1,000), or by both the fine and imprisonment.

(c) Unless it is with the written permission of the school district superintendent, his or her designee, or equivalent school authority, no person shall carry ammunition or reloaded ammunition onto school grounds, except sworn law enforcement officers acting within the scope of their duties or persons exempted under subparagraph (A) of paragraph (1) of subdivision (a) of Section 12027. This subdivision shall not apply to a duly appointed peace officer as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, a full-time paid peace officer of another state or the federal government who is carrying out official duties while in California, any person summoned by any of these officers to assist in making an arrest or preserving the peace while he or she is actually engaged in assisting the officer, a member of the military forces of this state or of the United States who is engaged in the performance of his or her



duties, a person holding a valid license to carry the firearm pursuant to Article 3 (commencing with Section 12050) of Chapter 1 of Title 2 of Part 4, or an armored vehicle guard, who is engaged in the performance of his or her duties, as defined in subdivision (e) of Section 7521 of the Business and Professions Code. A violation of this subdivision is punishable by imprisonment in a county jail for a term not to exceed six months, a fine not to exceed one thousand dollars (\$1,000), or both the imprisonment and fine.

(d) (1) A violation of paragraph (1) of subdivision (b) is justifiable where all of the following conditions are met:

(A) The person found the ammunition or reloaded ammunition or took the ammunition or reloaded ammunition from a person who was committing a crime against him or her.

(B) The person possessed the ammunition or reloaded ammunition no longer than was necessary to deliver or transport the ammunition or reloaded ammunition to a law enforcement agency for that agency's disposition according to law.

(C) The person is prohibited from possessing any ammunition or reloaded ammunition solely because that person is prohibited from owning or possessing a firearm only by virtue of Section 12021.

(2) Upon the trial for violating paragraph (1) of subdivision (b), the trier of fact shall determine whether the defendant is subject to the exemption created by this subdivision.

(3) The defendant has the burden of proving by a preponderance of the evidence that he or she is subject to the exemption provided by this subdivision.

SEC. 9. Section 12322 of the Penal Code is amended to read:

12322. Nothing in this chapter shall apply to or affect either of the following:

(a) The sale to, purchase by, possession of, or use of any ammunition by any member of the Army, Navy, Air Force, or Marine Corps of the United States, or the National Guard, while on duty and acting within the



scope and course of his or her employment, or any police agency or forensic laboratory or any person who is the holder of a valid permit issued pursuant to Section 12305.

(b) The possession of handgun ammunition designed primarily to penetrate metal or armor by a person who found the ammunition, if he or she is not prohibited from possessing firearms or ammunition pursuant to Section 12021, 12021.1, or paragraph (1) of subdivision (b) of Section 12316 of this code or Section 8100 or 8103 of the Welfare and Institutions Code and is transporting the ammunition to a law enforcement agency for disposition according to law.

SEC. 10. Section 2.5 of this bill incorporates amendments to Section 12021 of the Penal Code proposed by both this bill and AB 688. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1998, (2) each bill amends Section 12021 of the Penal Code, and (3) this bill is enacted after AB 688, in which case Section 2 of this bill shall not become operative.

SEC. 11. Section 8 of this bill incorporates amendments to Section 12316 of the Penal Code proposed by both this bill and AB 1221. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1998, (2) each bill amends Section 12316 of the Penal Code, and (3) this bill is enacted after AB 1221, in which case Section 7 of this bill shall not become operative.



Approved _____, 1997

Governor

